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7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE DISTRICT OF ARIZONA**
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10 IceMOS Technology Corporation,
11 Plaintiff,
12 v.
13 Omron Corporation,
14 Defendant.
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NO. CV-17-02575-PHX-JAT
RULE 16 SCHEDULING ORDER

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17 On August 8, 2018, a Scheduling Conference was held in open Court pursuant to
18 Rule 16(b) of the Federal Rules of Civil Procedure. Prior to the conference, the parties
19 filed a joint Rule 26(f) Proposed Case Management Plan. Pursuant to the terms of the
20 Plan and the representations made by the parties at the Scheduling Conference, all parties
21 were ordered to comply with the deadlines established in this Order.

22 **IT IS THEREFORE ORDERED** that the current provisions of the Federal Rules
23 of Civil Procedure shall apply to all proceedings concerning this case, except to the
24 extent they are inconsistent with Gen. Ord. No. 17-08 (D. Ariz. Apr. 14, 2017), in which
25 case the General Order controls.

26 **IT IS FURTHER ORDERED** that all mandatory initial discovery responses must
27 be made within the deadlines set by Gen. Ord. No. 17-08 (D. Ariz. Apr. 14, 2017).

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1 **IT IS FURTHER ORDERED** that the parties shall file a notice of service of their
 2 initial responses and later supplements consistent with Gen. Ord. No. 17-08 (D. Ariz.
 3 Apr. 14, 2017) at 3, ¶7.

4 **IT IS FURTHER ORDERED** that any motion to amend the Complaint shall be
 5 filed no later than **October 5, 2018**. If no amended complaint is filed, any motion to
 6 amend the Answer shall be filed no later than **October 19, 2018**.

7 **IT IS FURTHER ORDERED** that the party with the burden of proof on an issue
 8 shall make all expert disclosures required by the Federal Rules of Civil Procedure no later
 9 than **March 8, 2019**. The responding party (not having the burden of proof on the issue)
 10 shall make all expert disclosures required by the Federal Rules of Civil Procedure no later
 11 than **April 5, 2019**.¹ The party with the burden of proof on the issue shall make its
 12 rebuttal expert disclosure, if any, no later than **April 26, 2019**. No deposition of any
 13 expert witnesses shall occur before the disclosures concerning expert witnesses mandated
 14 by this Order are made.

15 **IT IS FURTHER ORDERED** that all discovery, including depositions of parties,
 16 witnesses, and experts, answers to interrogatories, and supplements to interrogatories
 17 must be completed by **May 17, 2019**. Fact Discovery must be completed by **February 8,**
 18 **2019**. In no event, however, shall this provision alter the duties and obligations imposed
 19 on the parties by Federal Rule of Civil Procedure 26(e) (and the parties must comply with
 20 Rule 26(e) within the deadline set by Gen. Ord. No. 17-08 (D. Ariz. Apr. 14, 2017) at 3,
 21 ¶8). This Order contemplates that each party will conduct discovery in an expeditious
 22 manner so as to **complete, within the deadline, any and all discovery**.² Further, in

23 ¹ If no expert disclosure is made by a party who has the burden of proof on an issue
 24 by the initial expert disclosure deadline, all initial expert disclosures by the party who
 25 does not have the burden of proof on an issue shall be made no later than the responding
 party deadline. A party responding to this type of disclosure shall do so by the rebuttal
 disclosure deadline.

26 ² As set forth in the Order Setting Rule 16 Scheduling Conference, the Court will not
 27 entertain discovery disputes after the close of discovery barring extraordinary
 28 circumstances. Therefore, the parties shall **complete** all discovery by the deadline set
 forth in this Order (**complete** being defined as including the time to propound discovery,
 the time to answer all propounded discovery, the time for the Court to resolve all
 discovery disputes, and the time to complete any final discovery necessitated by the

1 responding to Requests for Admissions, Requests for Production, or Interrogatories, the
 2 parties are cautioned that the Federal Rules of Civil Procedure do not permit “general” or
 3 “global” objections. Accordingly, the Court will not consider nor rule on objections that
 4 are not specific to the individual request propounded.

5 **IT IS FURTHER ORDERED** that notwithstanding any provisions of the Federal
 6 Rules of Civil Procedure or any other provisions of this Order, non-party witnesses shall
 7 **not** be permitted to attend, either physically, electronically, or otherwise, the deposition
 8 of any other witness in this case without an Order of this Court to the contrary.

9 **IT IS FURTHER ORDERED** reminding counsel of their duty under Rule 26(e)
 10 of the Federal Rules of Civil Procedure to supplement all mandatory initial discovery
 11 responses and responses to other discovery requests within the 30- days-from-discovery-
 12 or-revelation deadline set by Gen. Ord. No. 17-08 (D. Ariz. Apr. 14, 2017) at 3, ¶8. The
 13 Court requires that all evidence to be offered at trial (other than impeachment evidence)
 14 be contained in the Joint Proposed Final Pretrial Order. Therefore all exhibits and
 15 witnesses that may be offered at trial must be disclosed before the discovery deadline and
 16 sufficiently in advance of the deadline that meaningful discovery necessitated by such
 17 disclosures can reasonably be completed before the discovery deadline. This Order
 18 therefore supersedes the “thirty-day before trial” disclosure deadline contained in Rule
 19 26(a)(3) and the “by the fact discovery” default deadline contained in Gen. Ord. No. 17-
 20 08 (D. Ariz. Apr. 14, 2017). Therefore (1) failure to have timely supplemented a
 21 mandatory initial discovery response, including but not limited to witnesses and exhibits,
 22 (2) failure to have timely supplemented responses to any other valid discovery requests,
 23 or (3) attempting to include any witnesses or exhibits in the **joint** Proposed Final Pretrial
 24 Order that were not previously disclosed in a timely manner so as to allow for meaningful
 25 discovery prior to the discovery deadline set forth in this Order, may result in the
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27 Court’s ruling on any discovery disputes). Thus, “last minute” or “eleventh hour”
 28 discovery which results in insufficient time to undertake additional discovery and which
 requires an extension of the discovery deadline will be met with disfavor, and may result
 in denial of an extension, exclusion of evidence, or the imposition of other sanctions.

1 exclusion of such evidence at trial or the imposition of other sanctions (including
2 attorneys fees).

3 **IT IS FURTHER ORDERED that discovery motions are prohibited.** In the
4 event of a discovery dispute, the parties shall jointly contact the Court via conference call
5 to request a telephonic conference. The parties shall not contact the Court regarding a
6 discovery dispute unless they have been unable to resolve the dispute themselves after
7 personal consultation³ and sincere efforts to do so, **and they are prepared to state to the**
8 **court that they agree what is in dispute.** The parties shall not file any written materials
9 related to a discovery dispute without express leave of Court. If the Court does order
10 written submissions, the movant shall include a statement certifying that counsel could
11 not satisfactorily resolve the matter after personal consultation and sincere efforts to do
12 so in accordance with Civil Local Rule 7.2(j).

13 **IT IS FURTHER ORDERED** that all dispositive motions shall be filed no later
14 than **June 14, 2019**. Such motions must be, in all respects, in full compliance with the
15 Civil Local Rules.

16 **IT IS FURTHER ORDERED** that each party shall file **no more than one**
17 **motion for summary judgment** unless leave of Court is obtained. To obtain leave of
18 Court, a party shall file a motion setting forth the reasons justifying the filing of more
19 than one summary judgment motion and/or the reasons the party seeks leave to exceed
20 the page limits set forth in Civil Local Rule 7.2(e).

21 **IT IS FURTHER ORDERED** that all parties are hereby specifically admonished
22 that failure to respond to a motion by serving and filing an answering memorandum
23 within the time period expressly provided for in Civil Local Rule 7.2(c), 56.1(b) and/or
24 12.1(b) may be deemed a consent to the denial or granting of the motion and the Court
25 may dispose of the motion summarily pursuant to Civil Local Rule 7.2(i).

26 **IT IS FURTHER ORDERED** that, the parties shall not notice oral argument on
27 any motion. Instead, a party desiring oral argument on a motion shall request argument

28 ³ If represented by counsel, lead counsel must be on the conference call and have participated in the personal consultation.

1 by placing “**Oral Argument Requested**” immediately below the title of such motion.
2 The Court will then issue a minute entry order scheduling the oral argument if it deems
3 one necessary.

4 **IT IS FURTHER ORDERED** that any and all motions, requests, or
5 stipulations for extensions of time shall be made in accordance with the provisions of
6 Civil Local Rule 7.3. Notwithstanding this directive, however, if such motion, request, or
7 stipulation seeks an extension of time in which to file a memorandum in response or in
8 reply to a motion previously noticed for oral argument, under no circumstances shall such
9 motion, request, or stipulation seek an extension that would preclude the Court from
10 having at least **thirty (30) days** from the due date for the filing of the reply memorandum
11 to consider the merits of the underlying motion unless the motion, request, or stipulation
12 also seeks to vacate the oral argument. Any motion, request, or stipulation that seeks
13 both an extension of time and the vacating of oral argument shall contain a memorandum
14 of points and authorities that demonstrates good cause for the Court to grant the requested
15 extension. The deadlines set forth in this Order are the deadlines by which a party must
16 file documents with the Court, in addition to serving opposing counsel, notwithstanding
17 Federal Rule of Civil Procedure 5(d).

18 **IT IS FURTHER ORDERED** that, if no dispositive motions are pending before
19 the Court after the dispositive motion deadline has passed, **Plaintiff(s) shall file and**
20 **serve a Notice of Readiness for Final Pretrial Conference within ten (10) days of the**
21 **dispositive motion deadline.**

22 **IT IS FURTHER ORDERED** that, if dispositive motions are pending before the
23 Court following the dispositive motions deadline, **Plaintiff(s) shall file and serve a**
24 **Notice of Readiness for Final Pretrial Conference within ten (10) days of the**
25 **resolution of the last dispositive motion.**⁴

26 **IT IS FURTHER ORDERED** that the Order Setting Final Pretrial Conference

27 ⁴ Though the Court discourages the filing of motions for reconsideration, should a party
28 choose to file a motion for reconsideration of an interlocutory order, such party shall file
such motion under the standard set forth in *Motorola, Inc. v. J.B. Rogers Mechanical*
Contractors, Inc., 215 F.R.D. 581, 586 (D. Ariz. 2003).

1 will: (1) set deadlines for the filing of and response to motions in limine; (2) instruct the
2 parties on their duties in preparing for the Final Pretrial Conference and for trial; and (3)
3 include a form for the completion of the parties' joint Proposed Final Pretrial Order.

4 **IT IS FURTHER ORDERED** that because the deadlines set forth herein will
5 trigger setting a trial date, the Court deems these deadlines to be the equivalent of a firm
6 trial date.

7 **IT IS FURTHER ORDERED** that all motions for an award of attorneys' fees
8 shall be accompanied by an electronic spreadsheet, to be e-mailed to the Court and
9 opposing counsel, containing an itemized statement of legal services with all information
10 required by Local Rule 54.2(e)(1). This spreadsheet shall be organized with rows and
11 columns and shall automatically total the amount of fees requested so as to enable the
12 Court to efficiently review and recompute, if needed, the total amount of any award after
13 disallowing any individual billing entries. This spreadsheet does not relieve the moving
14 party of its burden under Local Rule 54.2(d) to attach all necessary supporting
15 documentation to its memorandum of points and authorities filed in support of its motion.
16 A party opposing a motion for attorneys' fees shall e-mail to the Court and opposing
17 counsel a copy of the moving party's spreadsheet adding any objections to each contested
18 billing entry (next to each row, in an additional column) so as to enable the Court to
19 efficiently review the objections and recompute the total amount of any award after
20 disallowing any individual billing entries. This spreadsheet does not relieve the non-
21 moving party of the requirements of Local Rule 54.2(f) concerning its responsive
22 memorandum.

23 **IT IS FURTHER ORDERED** that the parties shall keep the Court informed
24 regarding the possibility of settlement and, should settlement be reached, the parties shall
25 file a Notice of Settlement with the Clerk of the Court.

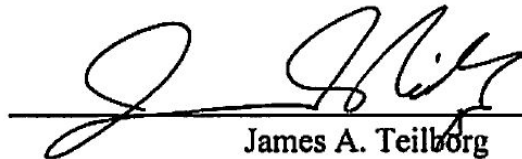
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1 **IT IS FURTHER ORDERED** that the Court views compliance with the
2 provisions of this Order as critical to its case management responsibilities and the
3 responsibilities of the parties under Rule 1 of the Federal Rules of Civil Procedure.

4 Dated this 8th day of August, 2018.

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9 James A. Teilborg
10 Senior United States District Judge
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